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COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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June 4, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

TRANSIENT OCCUPANCY TAX AUDITS: APPOINTMENT OF A REFEREE FOR APPEAL HEARINGS (ALL DISTRICTS) (3 VOTES)

SUBJECT

The Treasurer and Tax Collector (TTC) is nearing completion of audits of the County's Transient Occupancy Tax (TOT). The TOT ordinance delineates the appeal processes available to a hotel/motel operator who disagrees with a determination of the Tax Collector. These processes include an appeal of the Tax Collector's determination to your Board, which requires an appeal hearing. The ordinance permits your Board to appoint a referee to hear the appeal and to report his findings and recommendations to the Board for determination of what tax, interest, or penalties, if any, are due to the County. In accordance with County Code Section 4.72.260, the Executive Officer is responsible for coordinating the appellants hearing before the referee.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Executive Officer of the Board of Supervisors to appoint experienced and qualified senior County managers, or qualified senior managers who have retired from County service, to act as referees, pursuant to Section 4.72.270 of the Transient Occupancy Tax (TOT) Ordinance, to hear appeals by hotel/motel operators to TOT delinquency notices issued by the Treasurer and Tax Collector.
2. Authorize the Treasurer and Tax Collector and the Executive Officer of the Board of Supervisors to recover all costs associated with the administration of the appeal process.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

TOT is governed by the County Code (Code) Chapter 4.72. The Code requires hotel/motel operators (Operators) in the unincorporated area of the County to collect TOT at the rate of 12 percent of the rent and remit the collected tax monthly to the TTC. TTC collects approximately \$10 to \$12 million in TOT per fiscal year from approximately 90 Operators.

The County Code permits the TTC to audit Operators, for a period of up to three years. In the fall 2007, through the Auditor-Controller's Master Agreement, the TTC procured the services of two auditing firms to conduct audits for each of the Operators who remitted TOT to the TTC for fiscal years 2004-05, 2005-2006, and 2006-2007. This was the first time that all Operators have been audited under the Code. The audits are currently being finalized. The TTC estimates that the Operators under-reported TOT in the periods being audited by \$1.2 million and that along with associated penalties and interest the total dollar value of the audit findings could approximate \$2 million.

The Code permits Operators who disagree with the audit findings to appeal the findings, first to the TTC, and then to your Board, who may either hear the appeal or appoint a referee. Through collaborative discussions among our Office and the TTC, we recommend the Board authorize this Office to appoint experienced and qualified senior managers selected from County departments, or qualified senior managers who retired from County service, to act as referees, pursuant to Section 4.72.270. The senior managers must have experience at the level of Deputy Director/Bureau Chief, or its equivalent and must possess analytical, logical reasoning and written communication skills that will be required for a referee to hear TOT appeals.

Implementation of Strategic Plan Goals

The recommendations are consistent with the principles of County Strategic Plan Goal No. 1 (Service Excellence), by providing the Operators with a Board-appointed referee, and Goal No. 4 (Fiscal Responsibility), by strengthening compliance with the TOT.

FISCAL IMPACT/FINANCING

Revenue will be provided to the County general fund. The TTC and the Executive Officer of the Board of Supervisors will be entitled to recover all costs associated with the administration of the appeal process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

If an Operator files a notice of appeal with the Executive Officer, the Executive Officer will refer the matter to a referee and will assist in scheduling and providing notice of the appeal hearing. As required by Section 4.72.260 of the Code, the Executive Officer

shall give the Operator not less than five days notice, in writing, of the hearing date, time and place. The referee will report his findings and recommendations to the Board, in accordance with Section 4.72.270 of the Code. The Executive Officer will place the recommendations on a regularly scheduled Board agenda for your consideration, at which time your Board will determine what tax, interest, or penalties, if any, are due to the County.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No impact.

Respectfully submitted,



SACHI A. HAMAI
Executive Officer, Board of Supervisors

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c: Chief Executive Officer
County Counsel
Acting Auditor-Controller
Treasurer and Tax Collector